

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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BYSHOP ELLIOTT,

Plaintiff,

v.

BUFFALO CITY SCHOOL DISTRICT and  
CRYSTAL BOLING-BARTON, McKinley High  
School Principal, in her official and individual  
capacities,

Defendants.

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**ANSWER TO COMPLAINT**

Civ. Action No. 17-CV-00397

JURY TRIAL DEMANDED

Defendant, Crystal Boling-Barton (hereinafter “Mrs. Boling-Barton”), in her official and individual capacities, by and through her attorneys, Lipsitz Green Scime Cambria LLP, as and for her Answer to the Complaint filed by Plaintiff, Byshop Elliott (hereinafter the “Plaintiff”), states the following:

1. Mrs. Boling-Barton denies the allegations set forth in paragraph 1 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of the Complaint as they pertain to Defendant, Buffalo City School District (hereinafter “BCSD”) and, therefore, she denies the allegations as they pertain to BCSD.

2. Mrs. Boling-Barton denies the allegations set forth in paragraph 2 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

3. Mrs. Boling-Barton denies the allegations set forth in paragraph 3 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

4. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 of the Complaint and, therefore, she denies the allegations set forth therein.

5. Mrs. Boling-Barton denies the allegations set forth in paragraph 5 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

6. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the Complaint and, therefore, she denies the allegations set forth therein.

7. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the Complaint and, therefore, she denies the allegations set forth therein.

8. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of the Complaint and, therefore, she denies the allegations set forth therein.

9. Upon information and belief, Mrs. Boling-Barton admits that Plaintiff was a junior at McKinley High School during the 2016-2017 academic year. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set

forth in paragraph 9 of the Complaint and, therefore, she denies the remaining allegations set forth therein.

10. Mrs. Boling-Barton admits that she is the Principal at McKinley High School and that she has been the Principal at the high school since 1987. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 10 of the Complaint and, therefore, she denies the remaining allegations set forth therein.

11. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11 of the Complaint that BCSD is a “person” within the meaning of 42 U.S.C. § 1983. Upon information and belief, Mrs. Boling-Barton admits the remaining allegations set forth in paragraph 11 of the Complaint.

12. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12 of the Complaint and, therefore, she denies the allegations set forth therein.

13. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13 of the Complaint and, therefore, she denies the allegations set forth therein.

14. Mrs. Boling-Barton admits that students attending McKinley High School participate in a number of clubs. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 14 of the Complaint and, therefore, she denies the remaining allegations set forth therein.

15. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15 of the Complaint and, therefore, she denies the allegations set forth therein.

16. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 16 of the Complaint and, therefore, she denies the allegations set forth therein.

17. Mrs. Boling-Barton denies the allegations set forth in paragraph 17 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 17 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

18. Mrs. Boling-Barton denies the allegations set forth in paragraph 18 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 18 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

19. Mrs. Boling-Barton denies the allegations set forth in paragraph 19 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 19 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

20. Mrs. Boling-Barton denies the allegations set forth in paragraph 20 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 20 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

21. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 21 of the Complaint and, therefore, she denies the allegations set forth therein.

22. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 22 of the Complaint and, therefore, she denies the allegations set forth therein.

23. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 23 of the Complaint and, therefore, she denies the allegations set forth therein.

24. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 24 of the Complaint and, therefore, she denies the allegations set forth therein.

25. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 25 of the Complaint and, therefore, she denies the allegations set forth therein.

26. Mrs. Boling-Barton denies that she: (i) has created an application procedure for new student clubs that is specific to McKinley High School; and (ii) requires a faculty advisor for a proposed new club to send her a description of the proposed club which she either approves or denies. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 26 of the Complaint and, therefore, she denies the remaining allegations set forth therein.

27. Mrs. Boling-Barton denies the allegations set forth in paragraph 27 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient

to form a belief as to the truth of the allegations set forth in paragraph 27 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

28. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 28 of the Complaint and, therefore, she denies the allegations set forth therein.

29. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 29 of the Complaint and, therefore, she denies the allegations set forth therein.

30. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 30 of the Complaint and, therefore, she denies the allegations set forth therein.

31. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 31 of the Complaint and, therefore, she denies the allegations set forth therein.

32. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 32 of the Complaint and, therefore, she denies the allegations set forth therein.

33. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 33 of the Complaint and, therefore, she denies the allegations set forth therein.

34. Mrs. Boling-Barton denies that she has requirements for new club proposals. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the

remaining allegations set forth in paragraph 34 of the Complaint and, therefore, she denies the remaining allegations set forth therein.

35. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 35 of the Complaint and, therefore, she denies the allegations set forth therein.

36. Mrs. Boling-Barton denies that she has performed any actions in willful disregard of her students' rights under federal statute and the United States Constitution. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 36 of the Complaint and, therefore, she denies the remaining allegations set forth therein.

37. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 37 of the Complaint and, therefore, she denies the allegations set forth therein.

38. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 38 of the Complaint and, therefore, she denies the allegations set forth therein.

39. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 39 of the Complaint and, therefore, she denies the allegations set forth therein.

40. Mrs. Boling-Barton denies the allegations set forth in paragraph 40 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 40 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

41. Mrs. Boling-Barton denies the allegations set forth in paragraph 41 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 41 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

42. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 42 of the Complaint and, therefore, she denies the allegations set forth therein.

43. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 43 of the Complaint and, therefore, she denies the allegations set forth therein.

44. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 44 of the Complaint and, therefore, she denies the allegations set forth therein.

45. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 45 of the Complaint and, therefore, she denies the allegations set forth therein.

46. Mrs. Boling-Barton denies the allegations set forth in paragraph 46 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 46 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

47. Mrs. Boling-Barton denies the allegations set forth in paragraph 47 of the Complaint as they pertain to her. Mrs. Boling-Barton lacks knowledge or information sufficient

to form a belief as to the truth of the allegations set forth in paragraph 47 of the Complaint as they pertain to BCSD and, therefore, she denies the allegations as they pertain to BCSD.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

48. The Complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

49. Upon information and belief, the Complaint is barred because the Plaintiff lacks standing.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

50. At all relevant times, Mrs. Boling-Barton acted in good faith to comply with laws related to students' rights protected under federal statutes and the United States Constitution and, therefore, she is immune from liability.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

51. At all relevant times, Mrs. Boling-Barton acted in conformity with all federal constitutional and statutory provisions.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

52. The alleged conduct as set forth in the Complaint, in whole or in part, was properly within the discretionary authority committed to Mrs. Boling-Barton to perform her official

functions, and the relief requested in the Complaint, if granted, would constitute an improper intrusion by the federal judiciary into said discretionary authority.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

53. Mrs. Boling-Barton did not violate any clearly established statutory or constitutional rights of the Plaintiff which a reasonable person would have known and, therefore, she is entitled to qualified immunity.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

54. Upon information and belief, Plaintiff has not been damaged or suffered a concrete injury or irreparable harm, as another avenue of speech and association on school property is available through school district policies, and no students involved have been disciplined or reprimanded for their speech or expression.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

55. Plaintiff is unable to prove the legal requirements for the entry of declaratory and injunctive relief.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

56. There is no basis for liability under 42 U.S.C. § 1983 because there is no causal connection between policies and any Constitutional violation.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

57. Mrs. Boling-Barton is protected from liability and suit by the Eleventh Amendment of the United States Constitution and the doctrine of qualified immunity.

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

58. There is no legal basis for awarding Plaintiff punitive damages and/or attorneys' fees and costs.

WHEREFORE, Defendant, Crystal Boling-Barton, respectfully requests that this Court dismiss the Complaint in its entirety and/or enter judgment in her favor and against Plaintiff Byshop Elliott, and grant such other and further relief that it deems is just and appropriate. In the event it is ultimately determined that Plaintiff is entitled to the recovery of damages, that such recovery be diminished in the proportion with the culpable conduct attributable to Defendant, Buffalo City School District.

DATED: July 19, 2017  
Buffalo, New York

**LIPSITZ GREEN SCIME CAMBRIA LLP**  
*[Attorneys for Defendant Crystal Boling-Barton]*

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